

IN THE CIRCUIT COURT ____ OF CLARK COUNTY
STATE OF INDIANA

BRENDEN MARNAE WHITE)
PLAINTIFF)
v.) CASE NO. 10C ___ -22 - - -
CLARK COUNTY SHERIFF'S OFFICE)
DEFENDANT)
and)
SHERIFF JAMEY NOEL)
DEFENDANT)
JEFFERSONVILLE POLICE DEPARTMENT)
DEFENDANT)
and)
CHIEF KENNY KAVANAUGH)
DEFENDANT)
and)
OFFICER CHRIS BEAHL)
DEFENDANT)
and)
OFFICER CHRIS FULLER)
DEFENDANT)
PROSECUTING ATTORNEY JEREMY T. MULL)
DEFENDANT)
and)
DEPUTY PROSECUTOR ANDREW STEELE)
DEFENDANT)

COMPLAINT AND DEMAND FOR JURY TRIAL

Comes now the Plaintiff, BRENDEN MARNAE WHITE, by Counsel, William A. Gray and Michaelia S. Gilbert, and for his Claim states as follows:

I. JURISDICTION AND VENUE

1. This action is brought against Defendants in their personal and professional capacity under common law tort recognized in the State of Indiana, and under U.S.C. 42 § 1983.
2. The events that form the basis of this complaint occurred in Clark County, Indiana.

II. PARTIES

1. At all times relevant to this complaint, Brenden Marnae White, was a Black adult resident of Marion County, Indianapolis, Indiana.
2. At all times relevant to this complaint, the Clark County Sheriff's Office was a law enforcement agency operating in Clark County, Indiana headquartered at 501 East Court Avenue Jeffersonville, Indiana 47130.
3. At all times relevant to this complaint, Sheriff Jamey Noel was the elected official in charge of the Clark County Sheriff's Office.
4. At all times relevant to this complaint, the Jeffersonville Police Department was a law enforcement agency operating in Clark County, Indiana headquartered at 2218 East 10th Street Jeffersonville, Indiana 47130.
5. At all times relevant to this complaint, Officer Chris Beahl was employed by the Jeffersonville Police Department.
6. At all times relevant to this complaint, Officer Chris Fuller was employed by the Jeffersonville Police Department.
7. At all times relevant to this complaint the Clark County Prosecutor's Office was a law enforcement agency operating in Clark County, Indiana located at 501 East Court Avenue Suite 215 Jeffersonville, Indiana 47130.
8. At all times relevant to this complaint Jeremy T. Mull was the elected official in charge of the Clark County Prosecutor's Office and the supervising attorney of Deputy Prosecuting Attorney Andrew Steele.
9. At all times relevant to this complaint, Deputy Prosecuting Attorney Andrew Steele was employed by the Clark County Prosecutor's Office.
10. At all times relevant to this complaint Mark Anthony was the biological brother of Brenden Marnae White and had a last known address of Jeffersonville City at large.

III. FACTS

1. On or about February 12, 2020, in Clark County, State of Indiana, an individual (now known to be Mark Anthony White) was arrested by Officer Chris Beahl of the Jeffersonville Police Department during an investigation of an alleged shoplifting at Thornton's located at 202 East 10th Street, Jeffersonville, Indiana 47130.
2. During the course of the arrest and booking into the Clark County Jail (operated by the Clark County Sheriff's Office), Mark Anthony White identified himself as the Plaintiff, Brenden Marnae White. Further, while booking Mark Anthony White into the jail as Brenden Marnae White, Officer Chris Beahl took the time to review the NCIC of the Plaintiff in order to find a previous conviction to be used to enhance the theft charge from a Class A Misdemeanor to a Level 6 Felony. However, Officer Chris Beahl did not look at the descriptors of Brenden Marnae White to confirm that he had correctly identified the individual in his custody. Charges related to this matter were ultimately filed in Case 10C03-2002-F6-248, captioned State of Indiana v. Brenden Marnae White.
3. Further, on or about March 19, 2020, Officer Chris Fuller of the Jeffersonville Police Department was dispatched to the Subway located at 206 East 10th Street, Jeffersonville, Indiana 47130 on a complaint of criminal mischief. Officer Chris Fuller made contact with Mark Anthony White, who once again identified himself as Brenden Marnae White when being taken into custody. Charges in that matter were filed against Brenden Marnae White in Case 10C03-2004-CM-472.

4. Ultimately, Case 10C03-2002-F6-248 was assigned to the Chief Deputy Public Defender, Jennifer Harmeyer (hereinafter “Harmeyer”), who in her investigation into the case realized that the State has misidentified Brenden Marnae White as the Defendant and that the State should have charged Mark Anthony White. Harmeyer notified the Deputy Prosecutor assigned to the matter, Andrew Steele, of the misidentification on several occasions.
5. Harmeyer notified the Circuit 3 Deputy Prosecutor that in a case filed in the Clark Circuit Court Number 2, the State had dismissed charges wrongfully filed against Brenden Marnae White and refiled said charges against the correct individual, Mark Anthony White (Case 10C02-2001-F6-151). Case 10C02-2001-F6-151 was filed after the Jeffersonville Police Department submitted a probable cause affidavit to the Clark County Prosecutor’s Office in which Mark Anthony White had used the identifying information of Brenden Marnae White on or about January 24, 2020. Charges related to the January 24, 2020, incident were refiled against Mark Anthony White in Case 10C02-2003-F6-452. The Jeffersonville Police Department noted in its updated probable cause affidavit that the charging officer had been notified by the Clark County Prosecutor’s Office on March 12, 2020, that Mark Anthony White had used Brenden Marnae White’s identifying information thereby putting the Jeffersonville Police Department on notice as to Mark Anthony White’s penchant for falsely providing the identifying information of Brenden Marnae White prior to Officer Fuller’s encounter with Mark Anthony White on or about March 19, 2020.
6. Despite repeated efforts and information provided by Harmeyer, the Clark County Prosecutor’s Office failed to dismiss the wrongfully filed charges against Brenden Marnae White in the Clark Circuit Court Number 3.
7. On October 2, 2020, the State requested and was granted a warrant for “Failure to Appear” in Case 10C03-2004-CM-472. This warrant was served on Brenden Marnae White while he was in Hendricks County, Indiana on or about October 23, 2020. At no time after service of the warrant did the Clark County Prosecutor’s Office notify the Clark Circuit Court Number 3, the Clark County Sheriff’s Office or the Hendricks County Jail that Brenden Marnae White had been mistakenly charged and therefore should not have had a warrant issued for his arrest.
8. After being forced to spend the weekend incarcerated on the warrant issued out of 10C03-2004-CM-472, Brenden Marnae White was transported to the Clark County Jail in the midst of the COVID-19 pandemic. Brenden Marnae White had an Initial Hearing on the Failure to Appear warrant on October 26, 2020, and, once again, the Clark County Prosecutor’s Office failed to notify the court that the charges against Brenden Marnae White were mistakenly filed.
9. After the October 26, 2020, Initial Hearing on the Failure to Appear, Brenden Marnae White’s attorney, Harmeyer, obtained the book-in photos of Brenden Marnae White from October 23, 2020, and the book-in photo of Mark Anthony White from January 24, 2020, to the Clark County Prosecutor’s Office to demonstrate the physical differences between the two individuals.
10. Notices of Tort Claim were served upon the parties on or about December 9 and 10, 2020, with additional notices of tort claim being served upon the Indiana Attorney General’s Office and the Indiana Political Risk Management Subdivision on December 16, 2020.
11. On December 11, 2020, in Case 10C03-2002-F6-248, a Motion to Dismiss without prejudice was filed and was granted on December 14, 2020.

12. On January 12, 2021, in Case 10C03-2004-CM-472, a Motion to Dismiss without prejudice was filed and was granted on January 13, 2021.
13. Due to the continued negligence and dereliction of duty of the Clark County Sheriff's Office, Jeffersonville Police Department and the Clark County Prosecutor's Office, and despite the dismissals of the cases, Plaintiff fears that he could be rearrested for the crimes of Mark Anthony White and forced to spend additional time unlawfully incarcerated. Further, said matters continue to show on his criminal history despite authorities knowing that he was wrongfully charged and incarcerated on these matters.

WHEREFORE, the Plaintiff requests the following relief:

1. An award of damages under 42 U.S.C. § 1983 for violation of Brenden Marnae White's Civil Rights;
2. An award of compensatory damages for personal injuries resulting from malicious prosecution, defamation of character, intentional infliction of emotional distress, negligent infliction of emotional distress and false imprisonment;
3. Damages sufficient to compensate Brenden Marnae White for all lost wages and benefits;
4. An award of reasonable punitive damages;
5. Expungement of all records related to 10C03-2002-F6-248 and 10C03-2004-CM-472;
6. Trial by jury on all matters triable thereto;
7. Attorney fees as allowed by statute as well as costs;
8. An award of pre and post-judgment interest and all other relief Plaintiff is entitled to under the statutes and common law in this matter or that the Court deems just and proper.

I affirm under the penalties of perjury that the foregoing statements are true the best of my

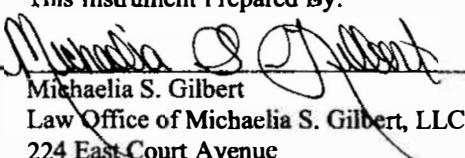
knowledge and ability.


Brenden M. White

ID No:7xxWG9VBJeAUzZ8rPV6EA

BRENDEN MARNAE WHITE

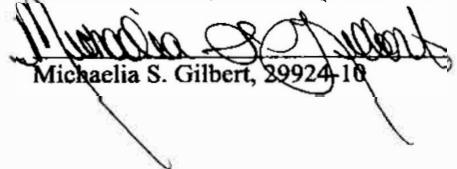
This Instrument Prepared By:


Michaelia S. Gilbert
Law Office of Michaelia S. Gilbert, LLC
224 East Court Avenue
Jeffersonville, Indiana 47130
812-914-2309
Attorney No. 29924-10

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing pleading(s) and/or document(s) was (were) served upon the following named party or attorney of record on or before date of filing either by efilng, personal service, service by Sheriff, or by depositing same in the United States mail in envelopes properly addressed with sufficient first-class postage prepaid:

Clark County Sheriff's Office, 501 East Court Avenue, Jeffersonville, Indiana 47130
Sheriff Jamey Noel, 501 East Court Avenue, Jeffersonville, Indiana 47130
Jeffersonville Police Department, 2218 East 10th Street, Jeffersonville, Indiana 47130
Chief Kenny Kavanaugh, 2218 East 10th Street, Jeffersonville, Indiana 47130
Officer Chris Beahl, 2218 East 10th Street, Jeffersonville, Indiana 47130
Officer Chris Fuller, 2218 East 10th Street, Jeffersonville, Indiana 47130 Jeremy T. Mull, Clark County Prosecuting Attorney, 501 East Court Avenue Suite 215, Jeffersonville, Indiana 47130
Deputy Prosecuting Attorney Andrew Steele, 501 East Court Avenue Suite 215, Jeffersonville, Indiana 47130


Michaelia S. Gilbert, 29924-10